

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Hamelin, et al.



Serial No. 10/521,300

Filed: January 14, 2005

For: METHOD FOR IDENTIFYING CELLULAR GROWTH
INHIBITORSArt Unit: Not Yet AssignedExaminer: Not Yet AssignedCommissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450INFORMATION DISCLOSURE STATEMENT
UNDER 37 CFR 1.97

Sir:

1. In compliance with 37 C.F.R. 1.97, submitted on the attached form herewith is a list of patents, publications or other information which are requested to be made of record in this application. This Information Disclosure Statement is not an admission that any patent, publication or other information referred to herein is "prior art" for this invention. In accordance with 37 C.F.R. 1.97(h), the filing of this Information Disclosure Statement shall not be construed to be an admission that the information cited in the Statement is, or is considered to be, material to patentability as defined in 37 C.F.R. 1.56(b).

2. In accordance with 37 C.F.R. 1.97(g), the filing of this Information Disclosure Statement shall not be construed to mean that a search has been made.

3. Applicants respectfully request that the Examiner initial the attached form after reviewing the pertinence of each reference.

4. Pursuant to 37 C.F.R. 1.98 (a)(2)(ii), copies of each cited U.S. patent and each U.S. patent application publication are not enclosed herewith.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, on the date appearing below.

MERCK & CO., INC.

By 2k R. 1 Date 6/1/05

INFORMATION DISCLOSURE STATEMENT

5. Pursuant to 37 C.F.R. 1.98(d), copies of references listed on the attached form that were submitted to or cited by the Office in a related application upon which the instant application relies for an earlier filing date under 35 U.S.C. 120 are not enclosed. Related application(s) in which references were submitted to or cited by the Office are as follows:

RELATED APPLICATION		
U. S. SERIAL NUMBER	FILING DATE	MERCK CASE

If this is inconvenient, additional copies will be submitted upon request.

6. In accordance with 37 C.F.R. 1.97, (check one)

- ☐ the attached information is filed within three months of the filing date of the captioned case.
- ☒ the attached information is filed more than three months after the filing date but prior to the mailing of a first Office Action on the merits.

- ☐ the attached information is being filed more than three months after the filing date and after the mailing of a first Office Action on the merits, but before the mailing date of a Final Action or Notice of Allowance. The enclosed authorization is therefore given to charge Deposit Account No. 13-2755 for the fee required under 37 C.F.R. 1.17(p).

- ☐ the undersigned certifies that each item of information contained in this Information Disclosure Statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Statement.

- ☐ the undersigned certifies that no item of information contained in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing the certification after making reasonable inquiry, was known to any individual designated under 37 C.F.R. 1.56(c) more than three months prior to the filing of this Statement.

Respectfully submitted,

Kenneth R. Walton

By: Kenneth R. Walton

Attorney For Applicant(s)

Reg. No. 32,951

MERCK & CO., INC.

Patent Dept., RY60-30

P.O. Box 2000

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Date: June 1, 2005



PATENT

THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Hamelin et al.

Serial No.: 10/521,300

Case No.: 21126YP

Art Unit:

Not Yet Assigned

Filed: January 14, 2005

Examiner:

Not Yet Assigned

For: METHOD FOR IDENTIFYING CELLULAR GROWTH
INHIBITORS

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

INFORMATION DISCLOSURE STATEMENT

Sir:

Applicants submit the following information which they believe may be pertinent to the examination of this application and in respect of which there may be a duty to disclose in accordance with 37 C.F.R. § 1.56:

Before the priority date claimed for the instant application, Elitra Pharmaceuticals, Inc. disclosed in confidence to certain Merck employees including one or more of the applicants of the instant application the subject matter set forth in the following documents:

US Patent No. 6,620,585 (Zyskind; issued September 16, 2003)

WO 02/086097 (Carr et al; published October 31, 2002)

Before the filing date of the instant application, Elitra Pharmaceuticals, Inc. disclosed in confidence to certain Merck employees including one or more of the applicants of the instant application the subject matter set forth in the following document:

US 2004/0029129 (Wang et al.; published February 12, 2004)

The three documents cited in the foregoing paragraphs are cited in a Form 1449 in a separate information disclosure statement being submitted with this statement. A copy of WO 02/086097 is enclosed with the separate information disclosure statement.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, on the date appearing below. MERCK & CO., INC. By [Signature] Date 6/1/05

The subject matter disclosed by Elitra Pharmaceuticals and the invention claimed in the instant application were not owned by the same person or subject to an obligation of assignment to the same person at the time the invention was made.

This submission is not to be construed as an admission that any of the submitted information is "prior art" with respect to the claimed invention. In accordance with 37 CFR 1.97(g), the filing of this Information Disclosure Statement shall not be construed to mean that a search has been made. In addition, in accordance with 37 C.F.R. 1.97(h), the filing of this Information Disclosure Statement shall not be construed to be an admission that the information disclosed is, or is considered to be, material to patentability as defined in 37 C.F.R. 1.56(b).

It is requested that the Examiner consider the information set forth herein and make it of record. It is further requested that the Examiner indicate in the next communication to Applicants that this statement has been considered and made of record.

This statement is being submitted before the mailing of the first Office Action on the merits and accordingly no fee is believed to be due.

Respectfully submitted,

By: Kenneth R. Walton

Kenneth R. Walton, Reg. No. 32,951

Attorney for Applicants

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Tel.: (732) 594-3462

Date: June 1, 2005

COMPLETE IF KNOWN

Application Number	10/521,300
Filing Date	January 14, 2005
First Named Inventor	Michael J. Hamelin
Group Art Unit	
Examiner Name	
Attorney Docket Number	21126YP

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of

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Attorney Docket Number	21126YP
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[illegible]

Examiner Initials*	Cite No.	Foreign Patent Document			Name of Patentee or Applicant of Cited Document	Date of Publication of Cited Document MM-DD-YYYY
		Office	Number	Kind Code (if known)		
.	13	WO	00/44906	A2	Elitra Pharmaceuticals, Inc.	08/03/2000
.	14	WO	02/086097	A2	Elitra Pharmaceuticals, Inc.	10/31/2002
.	15	WO	01/27322	A2	Elitra Pharmaceuticals, Inc.	04/01/2001
	16	WO	01/48209	A2	Elitra Pharmaceuticals, Inc.	07/05/2001
	17	WO	01/34810	A2	Elitra Pharmaceuticals, Inc.	05/17/2001
	18	WO	01/70955	A2	Elitra Pharmaceuticals, Inc.	09/27/2001
	19	WO	02/51982	A2	Elitra Pharmaceuticals, Inc.	07/04/2002

Date
Considered

SEND TO: Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. Computer generated form "IDS Form" (IDS Folder), Merck & Co., Inc., 09/05/2003

Substitute for form 1449B/PTO INFORMATION DISCLOSURE STATEMENT BY APPLICANT <i>(use as many sheets as necessary)</i>			COMPLETE IF KNOWN		
			Application Number	10/521,300	
			Filing Date	January 14, 2005	
			First Named Inventor	Michael J. Hamelin	
			Group Art Unit		
			Examiner Name		
Sheet	2	of	2	Attorney Docket Number	21126YP

NON PATENT LITERATURE DOCUMENTS		
Examiner Initials*	Cite No.	Include name of the author, title, date, page(s), volume-issue number(s) and place of publication.
	20	Walsh, Christopher, "Molecular Mechanisms That Confer Antibacterial Drug Resistance", Nature, Vol. 406, pp. 775-781 (2000)
	21	Acar, J. F., et al., "Disk Susceptibility Test", <u>Antibiotics in Laboratory Medicine</u> , edited by V. Lorian, pp. 1-51, (Williams & Wilkins, Baltimore, MD, 1996)
	22	Forsyth, R. A., et al., "A Genome-Wide Strategy for the Identification of Essential Genes in Staphylococcus Aureus", Molecular Microbiology, Vol. 43, No. 6, pp. 1387-1400 (2002)
	23	Ji, Y., et al., "Identification of Critical Staphylococcal Genes Using Conditional Phenotypes Generated by Antisense RNA", Science, Vol. 293, pp. 2266-2269 (2001)
	24	DeVito, J. A., et al., "An Array of Target-Specific Screening Strains for Antibacterial Discovery", Nature Biotechnology, Vol. 20, No. 5, pp. 478-483 (2002)
	25	Haselbeck, R., et al., "Comprehensive Essential Gene Identification as a Platform for Novel Anti-infective Drug Discovery", Current Pharmaceutical Design, Vol. 8, No. 13, pp. 1155-1172 (2002)
	26	Foulkes, J. G., "Elitra Pharmaceuticals: New Paradigms for Antimicrobial Drug Discovery", Drug Discovery Today, Vol. 7, No. 5, pp. S12-S15 (2002)
	27	W. Hewitt, " <u>Microbiology Assay</u> ", Academic Press, New York, NY, pp. v. - 16 (1977)

Examiner Signature		Date Considered	
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*Examiner: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

SEND TO: Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. Computer generated form "IDS Form" (IDS Folder), Merck & Co., Inc., 09/05/2003